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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
13

14 IN RE APPLICATION OF EURASIAN  
NATURAL RESOURCES CORPORATION  
15 LTD.,

16 Applicant.

Case No. 3:18-mc-80041-LB

**DECHERT LLP'S RE-NOTICE OF  
MOTION AND MOTION TO  
PARTICIPATE IN DISCOVERY  
PROVIDED PURSUANT TO 28 U.S.C. §  
1782, AND MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT THEREOF  
INCORPORATED BY CROSS-  
REFERENCE**

**Date: June 28, 2018  
Time: 9:30 a.m.  
Dept: Courtroom C  
Judge: Honorable Laurel Beeler**

**RE-NOTICE OF MOTION AND MOTION**

NOTICE IS HEREBY GIVEN that, on June 28, 2018, at 9:30 a.m., or as soon thereafter as counsel may be heard, in the Courtroom of the Honorable Laurel Beeler, United States District Court for the Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, Dechert LLP (“Dechert”) will and hereby does move the Court, pursuant to Federal Rules of Civil Procedure 24 and 45 for an order permitting Dechert to appear in this proceeding for the limited purpose of obtaining any documents and deposing the witness produced in response to the subpoena served by Applicants Eurasian Natural Resources Corporation Ltd. (“Applicant” or “ENRC”) on Danny Fortson (“Fortson”).

By Application dated February 23, 2018, ENRC filed an Application for Discovery for Use in a Foreign Proceeding Pursuant to 28 U.S.C. § 1782 (the “Application”) (ECF 1). On March 12, 2018 Dechert filed a motion to participate in ENRC’s discovery of Forston. (ECF 6). On March 30, 2018, the Court entered an Order granting ENRC’s Application (ECF 9). The same day, the Court entered an Order terminating Dechert’s motion because Mr. Forston was not currently producing any documents or attending a deposition (the “Order”) (ECF 11). The Court’s Order provided that “If there is discovery, Dechert may re-notice its motion by cross-referencing its earlier filing,” and “Dechert may participate in meet and confers between ENRC and Mr. Forston.” (ECF 11).

Dechert has been informed that Mr. Forston has now been served with ENRC’s subpoena, and that Mr. Forston intends to assert privileges and immunities available to him as a journalist. Dechert would like to be involved in discovery between ENRC and Mr. Forston. Accordingly, per the Court’s Order, Dechert now re-notices its Motion to Participate in Discovery Provided Pursuant to 28 U.S.C. § 1782, and incorporates by cross-reference the Notice of Motion, Motion, and Memorandum of Points and Authorities contained its Motion filed on March 12, 2018 as ECF 6.

This motion is based on this Re-Notice of Motion, the Memorandum of Points and Authorities incorporated herein by cross-reference to Dechert’s filing of March 12, 2018 (ECF 6),

1 the argument of counsel, all pleadings, records and papers on file, and such other matters that may  
 2 be presented to the Court.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 Per the Court's Order in ECF 11, dated March 30, 2018, Dechert incorporates by cross-  
 5 reference the Memorandum of Points and Authorities in its filing of March 12, 2018 (ECF 6),  
 6 with the following modification:

7 In addition to its request to participate in discovery by receiving any and all documents  
 8 and/or other discovery materials produced by Fortson, attending any depositions taken of Fortson,  
 9 and deposing Forston itself, Dechert seeks to request that Forston produce additional documents  
 10 related to the requests for documents in the subpoena to Forston, attached as Exhibit B to ENRC's  
 11 Application. Specifically, Dechert requests that Forston produce any document that records or  
 12 refers to the source of information for the article attached as Exhibit A to the Application,  
 13 including but not limited to any document that refers to the letter from Dechert to ENRC that was  
 14 later leaked to Forston and/or how that letter came to be in Forston's possession.

15 This does not prejudice the rights of the current parties, as it does not involve new issues,  
 16 does not seek to unnecessarily prolong a proceeding, and ensures Dechert can protect its interests.

17 Dated: May 23, 2018

18 Respectfully submitted,

19 DECHERT LLP

20 /s/ H. Joseph Escher III

21 H. JOSEPH ESCHER III

22 Attorneys for Dechert LLP